



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TRG  
Docket No: 2704-99  
28 June 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy filed enclosure (1) with this Board requesting a better characterization of service than the general discharge issued on 29 May 1998. He is also requesting a change in his Separation Program Designator (SPD) code so that his reenlistment bonus will not be recouped.

2. The Board, consisting of Mr. Zsalman, Mr. Bartlett and Ms. Gilbert, reviewed Petitioner's allegations of error and injustice on 20 June 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner reenlisted in the Navy on 13 January 1995 for six years. At that time he was paid a Selected Reenlistment Bonus (SRB) of \$24,538.80. He was paid an initial installment of \$12,269.40 and subsequent annual installments of \$2,453.88.

d. Petitioner's performance evaluation for the period ending 15 March 1996 shows that he passed the physical readiness test and was within weight standards. The overall trait average (OTA) was a satisfactory 3.14. The performance evaluation for the period ending 3 February 1997 shows that he had passed the PRT but was not within weight standards. He was assigned a mark

of 1.0 in military bearing. The OTA was 3.43.  
There are no further performance evaluations in the record.

e. The next entry in Petitioner's record shows that on 29 May 1998 he was issued a general discharge by reason of weight control failure and was assigned an RE-3T reenlistment code. The documentation to support the discharge action is not filed in the service record.

f. In cases such as his, an individual must receive either an honorable or general discharge. Characterization of service is normally determined by the average of all the OTA's in the record. An individual must have a 2.0 average to be eligible for an honorable discharge. Petitioner's available evaluations would support the issuance of an honorable discharge. Additionally regulations allow for the assignment of an RE-3T or an RE-4 reenlistment code when an individual is discharged due to weight control failure.

g. The Board is aware that the law requires recoupment of the unearned portions of the SRB unless an individual is discharged due to a physical disability or hardship. Petitioner served about three years and four months of his six year reenlistment and therefore only earned slightly more than half of the \$24,538.60 reenlistment bonus. His indebtedness occurred because of the initial payment of one half of the bonus.

h. On 20 April 2000 the Board sent Petitioner a letter asking for a copy of his last performance evaluation and information concerning the SRB issue. He has not responded to this request.

#### MAJORITY CONCLUSION:

Upon review and consideration of all the evidence of record, the majority, consisting of Mr. Zs Salman and Ms. Gilbert, concludes that Petitioner's request warrants partial favorable action. The majority notes that the discharge processing documentation and the performance evaluations after 3 February 1996 are not filed in the service record. However, the Board also notes that he was not the subject of any disciplinary actions and the available performance evaluations support an honorable characterization of service. Additionally, the majority notes that Petitioner was assigned an RE-3T reenlistment code which means that he was recommended for reenlistment except for the disqualifying factor of obesity. Given the circumstances, the majority concludes that it is probable that the general discharge was issued in error and the discharge should now be recharacterized to honorable.

Concerning the request for a correction of the reason for discharge and SPD code, the Board notes that recoupment is required when an individual is separated by reason of weight control failure. Since there is no indication that his problems with his weight were caused by a physical problem, the Board concludes that action to prevent recoupment of the reenlistment bonus is not warranted.

MAJORITY RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that 29 May 1998 he was issued an honorable discharge by reason of weight control failure vice the general discharge actually issued on that date.
- b. That his request for a change in the reason for discharge and SPD code be denied.
- c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

MINORITY CONCLUSION:

Mr. Bartlett disagrees with the majority and concludes that Petitioner's request does not warrant favorable action. He notes that there may have been an adverse performance evaluation after 3 February 1997 and believes that he must presume that the general discharge was proper as issued and no change is warranted. He also concludes that there is no basis for a change in the reason for discharge and SPD code.

In view of the foregoing, the minority finds no injustice warranting corrective action.

MINORITY RECOMMENDATION:

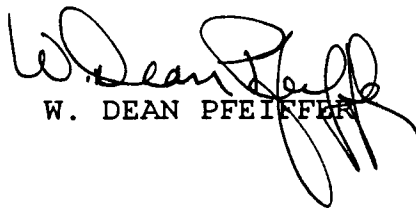
That Petitioner's request be denied.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
ALAN E. GOLDSMITH  
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.

  
W. DEAN PFEIFFER

MAJORITY REPORT:  
Reviewed and approved:

*C. L. Tompkins*

JUL 13 2000

CHARLES L. TOMPKINS  
Deputy Assistant Secretary of the Navy  
(Personnel Programs)

~~MINORITY REPORT:~~  
~~Reviewed and approved:~~